

PUBLIC EMPLOYMENT RELATIONS COMMISSION

UNFAIR PRACTICE PROCEDURES

Readoption with Amendments: N.J.A.C. 19:14

Proposed: April 4, 2005 at 37 N.J.R. 964(a)

Adopted: June 30, 2005 by the Public Employment Relations Commission, Lawrence Henderson, Chairman

Filed: June 30, 2005 as R. _____, without change

Authority: N.J.S.A. 34:13A-5.4c; 34:13A-11

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Effective Date: Readoption: June 30, 2005
Amendments: August 1, 2005

Expiration Date: June 30, 2010

Summary of Public Comments and Agency Responses

No comments were received.

Federal Standards Statement

Because these rules are not subject to federal standards and requirements, a Federal exceedance analysis is not required. The National Labor Relations Act excludes from its coverage "any State or political subdivision thereof." 29 U.S.C. §152(2).

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:14.

Full text of the adopted amendments follows:

SUBCHAPTER 1. CHARGE

19:14-1.4 Number of copies; service

The charging party shall file an original and four copies of such charge, together with proof of service of a copy on all

other parties. The Director of Unfair Practices will send a copy to the respondent, but the charging party will remain responsible for formal service of the charge.

19:14-1.5 Amendment; withdrawal; dismissal

(a) - (c) (No change.)

(d) The Director of Unfair Practices or the assigned hearing examiner may request the charging party to withdraw its charge. Where it appears to the Director of Unfair Practices or the assigned hearing examiner that the charging party has no further interest in processing its charge, the Director or hearing examiner may request the charging party to withdraw the charge or, in the absence of a withdrawal, may dismiss the charge within a reasonable time and after appropriate notice. The Director may exercise such authority before the issuance of a complaint and the hearing examiner may exercise such authority after the issuance of a complaint. Unless otherwise stated, a withdrawal and dismissal under this subsection is without prejudice.

(e) Within 15 days after the date a charge has been dismissed under this section, a charging party may file a written motion to reopen with the Director of Unfair Practices. The charging party shall file an original and two copies of such motion, together with proof of service of a copy on all other parties. Any party opposing the motion shall file an original

and two copies of its response within five days of receipt of the motion, together with proof of service of a copy on all other parties. The motion may be granted on a showing of extraordinary circumstances or to prevent an injustice.

SUBCHAPTER 2. COMPLAINT WITH NOTICE OF HEARING

19:14-2.1 Contents; service

(a) After a charge has been processed, if it appears to the Director of Unfair Practices that the allegations of the charge, if true, may constitute unfair practices on the part of the respondent, and that formal proceedings should be instituted in order to afford the parties an opportunity to litigate relevant legal and factual issues, the Director shall issue and serve a formal complaint including a notice of hearing before a hearing examiner at a stated time and place. The complaint with notice of hearing shall contain:

1.-2. (No change.)

3. A statement of the time and place of any pre-hearing conference. The hearing examiner, upon proper cause shown, may postpone any hearing or pre-hearing conference. If the hearing examiner is unavailable to make that determination in a timely manner, the Director may exercise such authority.

SUBCHAPTER 3. ANSWER

19:14-3.2 Where to file; number of copies; service

An original and four copies of the answer shall be filed

with the hearing examiner, together with proof of service of a copy on all other parties.

SUBCHAPTER 4. MOTIONS

19:14-4.1 Motions

The motion practice set forth in this subchapter applies after a complaint issues. Before then, relief which might be sought through motions should be sought through N.J.A.C. 19:14-1.5(e).

19:14-4.4 Answering affidavits; further submissions by leave; oral argument or testimony

(a) (No change.)

(b) No further arguments, documents or affidavits shall be filed except by leave of the Commission or hearing examiner, as applicable. A request for leave shall be in writing, accompanied by proof of service of a copy on all other parties.

(c) (No change in text.)

19:14-4.8 Motions for Summary Judgment

(a) - (c) (No change.)

(d) No further arguments, documents or affidavits shall be filed except by leave of the Commission or hearing examiner, as applicable. A request for leave shall be in writing, accompanied by proof of service of a copy on all other parties.

(e) (No change in text.)

(f) (No change in text.)

(g) (No change in text.)

SUBCHAPTER 8. PROCEDURE BEFORE THE COMMISSION

19:14-8.4 Motions for reconsideration

After a Commission decision has been issued, a party may move for reconsideration. Any motion pursuant to this section shall be filed within 15 days of service of the Commission decision, together with proof of service of a copy on all other parties. The movant shall specify the extraordinary circumstances warranting reconsideration and the pages of the record it relies on. Any party opposing reconsideration may file a response within five days of service on it of the motion, together with proof of service of a copy on all other parties. No further submissions shall be filed except by leave of the Commission. A request for leave shall be in writing, accompanied by proof of service of a copy on all other parties. The filing and pendency of a motion for reconsideration shall not operate to stay the effectiveness of the Commission decision unless otherwise ordered by the Commission. A motion for reconsideration need not be filed to exhaust administrative remedies.

SUBCHAPTER 9. INTERIM RELIEF

19:14-9.3 Briefs

(a) - (b) (No change.)

(c) No further briefs shall be filed without leave of the

Chairman or the Commission's designee. A request for leave shall be in writing, accompanied by proof of service of a copy on all other parties.